

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DERRICK GIBSON,)
) 2:16cv392
Plaintiff,) Electronic Filing
)
v.)
)
MARY FLEMING, et al.,)
)
Defendants.)

ORDER OF COURT

AND NOW, this 4th day of June, 2018, for the reasons set forth in the Opinion filed this date, IT IS ORDERED as follows:

The Motion to Dismiss filed by Defendants be, and the same hereby is, granted in part and denied in part. Specifically, the motion be granted as to (i) all claims against the Defendants in their official capacities; (ii) all claims alleging a separate standalone claim that Defendants filed false misconduct reports against Plaintiff; and (iii) all claims raised under the Fourteenth Amendment. The motion be denied as to Plaintiff's claims of retaliation, deliberate indifference to his serious medical needs, excessive force, failure to protect, and conspiracy.

The Magistrate Judge's April 30, 2018, Report and Recommendation (ECF No. 72) be, and the same hereby is, adopted as the opinion of the court.

Defendants shall file a responsive pleading in accordance with Fed.R.Civ.P. 12((a)(4)(A).

s/ DAVID STEWART CERCONE
David Stewart Cercone
Senior United States District Judge

cc: Derrick Gibson
JP 2190
SCI Retreat
660 State Route 11
Hunlock Creek, PA 18621-3136
(*Via First Class Mail*)

J. Eric Barchiesi, Esquire
(*Via CM/ECF Electronic Mail*)